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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,823	07/02/2003	Daniel W. Mauney	1033-T00142-C4	3919

60533 7590 05/08/2006

TOLER SCHAFFER, LLP
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EXAMINER

RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,823

Applicant(s)

MAUNEY ET AL.

Examiner

Sharad Rampuria

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2617

DETAILED ACTION

I. The Art Unit location of this application in the USPTO has changed. To abet in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

II. The current office-action is in response to the Preliminary Amendment filed on 03/03/2006.

Accordingly, Claims 1-39 are pending for further examination as follows:

Priority

III. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Oath/Declaration

IV. The office acknowledges receipt of a properly signed oath/declaration.

Drawings

V. The receipt of drawings filed on is accepted by examiner.

Information Disclosure Statement

VI. The Information Disclosure statement (IDS) submitted is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements.

Double Patenting

VII. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

VIII. Claims 1-39 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of copending Application No.

10/612396. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the claimed limitations of the present U.S. Application No.

10/612823, for example, see Claim 1 is explained in following table, is transparently found in claim 1 of the copending U. S. Application No. 10/612396 with obvious wording variations.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

<i>Instant Claim of U.S. Application No.</i> <i>10/612823</i>	<i>Related Claim of U. S. Application No.</i> <i>10/612396</i>
1. A wireless communication device, the wireless communication device comprising:	1. A proximal wireless communication device comprising:
A transmitter for transmitting a transmission signal via a wireless network; a receiver for receiving an inbound signal via the wireless network; and	Wireless communication circuitry configured to transmit a find signal to determine whether the wireless network device associated with a selected entry of the plurality of entries is within range to establish a handset-to-handset communication.
Wherein the wireless communication device is addressable by a public switch telephone network coupled to the wireless network using a first identification number and wherein the wireless communication device is addressable by a peer device associated with the wireless network using a second identification number.	A memory including a plurality of entries identifying a set of wireless network devices, each entry of the plurality of entries associated with a wireless network device of the set of wireless network devices and including a unique device identification number.

Also based on another application:

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IX. Claims 1-39 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 10/838112. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the claimed limitations of the present U.S. Application No. 10/612823, for example, see Claim 1 is explained in following table, is transparently found in claim 11 of the copending U. S. Application No. 10/838112 with obvious wording variations.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

<i>Instant Claim of U.S. Application No. 10/612823</i>	<i>Related Claim of U. S. Application No. 10/838112</i>
1. A wireless communication device, the wireless communication device comprising:	1. A method of discovering proximally located objects within a proximity wireless coverage area, the method comprising:
A transmitter for transmitting a transmission signal via a wireless network; a receiver for receiving an inbound signal via the wireless network; and	Transmitting an inquiry data packet according to a wireless protocol using a short-range wireless transmitter; transmitting the inquiry data packet using the short-range wireless transmitter; receiving a first response data packet including a first object identifier, the first response data packet identifying a first

	proximally located object within the proximity wireless coverage area; receiving a second response data packet including a second object identifier,
Wherein the wireless communication device is addressable by a public switch telephone network coupled to the wireless network using a first identification number and wherein the wireless communication device is addressable by a peer device associated with the wireless network using a second identification number.	The second response data packet identifying a second proximally located object within the proximity wireless coverage area; and dynamically generating a list of detected objects located within the proximity wireless coverage area, the dynamically generated list of detected objects including the first object identifier and the second object identifier.

Conclusion


X. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or EBC@uspto.gov.

Sharad Rampuria
Examiner
Art Unit 2617


GEORGE ENG
SUPERVISORY PATENT EXAMINER